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The Last Stand of Low Blow Joe

The first member of the Senate Judiciary Committee to arrive for the Brennan hearing was its chairman, Senator Eastland, resplendent in a new suit of brown Harris tweeds, his strong jaws clamped fiercely on a big 50-cent cigar. Robert Morris, counsel of the Internal Security subcommittee came along soon after, interrupting the hard casuistical wrestle he had begun the day before to determine whether Eugene Dennis was still a Marxist-Leninist or had lapsed into Bukharinism. McCarthy, fresh shaven, slipped in a few minutes later, taking a seat low down on the commitee table, and grinning with delight as the movie cameras again whirred over him. Room 424 Senate Office Building, the Judiciary Committee hearing room, with chairs for scarcely three score visitors and only two small press tables was a come-down from the great caucus room on the third floor where McCarthy had battled the Army. But Joe looked like an old trouper who had finally got an engagement again; the standees were three rows deep; the room was like a Turkish bath; the fall guy was a U. S. Supreme Court nominee; it looked like Joe's chance for a come-back in the headlines.

Had He Dared Speak of Salem Witch Hunts?

Three weeks earlier McCarthy had failed miserably to block the nomination of J. David Zellerbach as Ambassador to Italy by exposing him on the Senate floor as a former director of the Fund for the Republic. McCarthy accused the Fund of trying to "discredit any committee which attempts to disclose (sic) Communists," but the Senate nevertheless confirmed the appointment by voice vote. Now McCarthy was before a smaller and more favorable forum, or at least so he had reason to believe. With Eastland in the chair and Senators Jenner and Butler on the other side of the table for moral support, McCarthy went into the old act. In that flat remorseless metallic voice "The Investigator" preserves for posterity, McCarthy said the Supreme Court in a number of cases soon to come before it would decide "whether Congress will be able to pursue its investigations of Communism." He thought it important "for the American people to know" if the judges "are predisposed against Congressional investigations of Communism." He said that he wanted to learn if the new appointee to the Supreme Court had referred to Congressional investigations as "Salem witch hunts" and "inquisitions" and had accused Congressional committees of "barbarism."

All the old tricks were on display. There was the studied discourtesy; he constantly referred to "Mr." Brennan, though Brennan was sworn in last fall as a U. S. Supreme Court Justice. There was the fake drama. McCarthy had "evidence." The evidence "came from the mouth of Judge Brennan." The phrasing implied that it had been painfully extracted. It was only the heckling from Senator O'Mahoney which finally deflated this. The "evidence" consisted of copies furnished McCarthy by Mr. Justice Brennan of two speeches he had made. One was a St. Patrick's Day address to the Boston Charitable Irish Society in 1954; the other was in February, 1955. McCarthy did his best in the familiar style to make it appear that the latter was an address at Fort Monmouth, perhaps to an assembly of those very subversives he was laboring so hard to expose at that time. Mr. Justice Brennan, a short round faced pleasant looking man, pointed out with some asperity that the speech was at Red Bank, N. J., not Fort Monmouth, and to a gathering of the Monmouth County Rotary Club.

Mr. Justice Brennan Proved Prophetic

"The abuses took on modern dress—not the rack and the screw, but the distorted version of the happenings at secret hearings released to the press, the shouted epithet at the hapless and helpless victim. And woe betide him who cried protest at this perversion of the legislative inquiry! He was thrust in the mold of a sympathizer with and protector of those who plead the Fifth amendment."

—Speech by Mr, Justice William J. Brennan, Jr., in Red Bank, N. J., Feb. 23, 1955, to the Monmouth County Rotary Clubs.

Undecided on Satan's Power?

In the Inquisition the first cause for suspicion was to doubt the need for the Holy Office, the second to seem skeptical of the Devil's all-pervading power. It was to these two questions in their contemporary form that McCarthy addressed himself. "Mr. Brennan," McCarthy began his interrogation, "do you approve of Congressional investigation to expose the Communist conspiracy?" Mr. Justice Brennan passed this one easily. He not only approved but could think of no more important function. But at the second question, the Justice balked. Would he agree, McCarthy asked, that the Communist party was not just a political party but a conspiracy to overthrow the American way of life? The Justice explained, in obvious reference to the pending test of the Internal Security Act in the Communist party registration case, that his oath of office forbade him to answer questions now before the court. McCarthy felt he had his victim hooked, and proceeded to make him sweat by asking the same question several times more in slightly different forms. Finally McCarthy sneered, "I'd like to know whether the young man agrees with the Daily Worker and all the Communist line papers", to which the Justice still replied stubbornly, "I cannot venture any comment on matters before the court."

Justice Brennan might have held out against frontal assault by McCarthy but began to give way when Senator O'Ma-

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Judge Medina Would Seem To Be As Suspect By This Standard as Mr. Justice Brennan

J. Edgar Runs Interference for McCarthy With An Attack on "Pseudo-Liberals"

Two speeches on Washington's Birthday provided background, one sinister, the other ironic, for McCarthy's attack on Mr. Justice Brennan. The former was made by J. Edgar Hoover at the Freedom Foundation annual awards at Valley Forge. The latter was by Judge Harold R. Medina of the Federal Court of Appeals for the Third Circuit.

Mr. Hoover's speech was an attack on what he calls the "pseudo-liberals," a term he did not define. He is not prepared to call them crypto-Communists since he himself admits grudgingly, "To be sure, the pseudo-liberals proclaim themselves as anti-Communist." But some of them, in his opinion, merely "seek the pseudo-liberal cloak to conceal more sinister objectives" and this is "to curtail the Government's authority to defend our national security."

The FBI chief (the text of his speech may be found in the *Congressional Record* for February 21) complained, "The pseudo-liberal has increasingly conceived committees in the name of defending every freedom, but none to uphold authority." Mr. Hoover said these "pseudo-liberals have become the ready tools of the Communist conspiracy and their refusal to recognize the difference between the authority for the common good, and oppression, has aided in making possible an era of Communist expansion."

While Mr. Hoover was speaking at Valley Forge, Judge Medina was addressing the Sons of the Revolution in New York. "I would rather," Judge Medina said, "see every Communist go scot free than abandon or water down or in any way diminish the force and vigor of a single one of our precious freedoms, and this particular one of which I wish to speak is guaranteed by the Fifth amendment."

Can Liberals Be Authoritarian?

Were it anybody else but the Judge who presided over our first Smith Act prosecution of the American Communist leaders, Judge Medina would qualify as one of Mr. Hoover's "pseudo-liberals." Where Mr. Hoover at Valley Forge called for a "proper balance between freedom and authority," Judge Medina weighted the scales on the side of freedom *against* authority. This is what Mr. Hoover means by a "pseudo-liberal."

But since the liberal tradition as it has come down to us from Milton and Jefferson, Spinoza and Voltaire, has always exalted freedom over authority, it is clear that for Mr. Hoover any real liberal is a "pseudo-liberal."

Mr. Hoover's speech and McCarthy's attack on Mr. Justice Brennan reflect the same feverish preconceptions—that the country is endangered by some vague kind of a plot in which people who call themselves liberals are trying to undermine the country's power to combat Communism. If Mr. Hoover is right, then McCarthy is justified, and not only Mr. Justice Brennan but even Judge Medina is properly suspect.

Mr. Hoover's speech could not have been timed better for McCarthy's purpose. It provided a background of that conspirator-around-every-corner miasma on which McCarthyism fattened before, and could revive again.

Benedict Arnold? Judas Iscariot?

"The confidential informant is more than a valued ally of the modern day law enforcement agency. He is an institution, and indispensable part of all walks of life. While it is a simple matter to trace the use of informants back through the American Revolution and into Biblical times. . . ."

—J. Edgar Hoover, Syracuse Law Review, Fall, 1956.

The head of the Federal Bureau of Investigation, our secret police, which has been extending its area of political surveillance steadily, shows himself to be—like McCarthy—a man to whom liberals are prima facie suspect. And like McCarthy he is ready to cut corners to achieve his purposes. This is the meaning of that talk about achieving a proper balance between authority and freedom.

Mr. Hoover and Confidential Informants

An article by Mr. Hoover in the Fall, 1956, issue of the *Syracuse Law Review* throws further light on what he means. It is called "The Confidential Nature of FBI Reports."

Mr. Hoover's article confuses three different questions. One is the undoubted right of the executive branch to keep certain papers secret from the legislative. Another is the ineradicable police practice of using informants. The third—the controversial one—is the growing practice of using the testimony of informants in a wide range of loyalty and security hearings involving the right to work and travel without giving accused persons opportunity to confront and cross-examine them.

Here again Mr. Hoover sees occult forces at work. "Subversive elements," he wrote in the law review, "have launched an intensive program of villification and lies designed to discredit the entire concept of accepting information in confidence. It is no small coincidence that the Communist party, supported by its 'dupes' and sympathizers, has spearheaded this campaign."

Mr. Hoover's article would make a better impression if it admitted that informants are sometimes, if not often, unreliable and that some FBI informers have proved to be perjurers or psychotic. One would never guess this from his article, nor that the real issue is not the use of "stoolpigeons" but the habit of shielding them from cross-examination in many kinds of proceedings serious enough to blast people's livelihood and reputation. Mr. Hoover never faces up to the issue of how this can be reconciled with fair trial.

How faithfully Mr. Hoover fellow travels the same route as the Congressional witch hunters is also reflected in the tangential attack the FBI chief makes in his article on John Cogley and the Fund for the Republic report on blacklisting. The blacklist is the principal instrument of thought control, and any attack upon it touches a sensitive nerve. McCarthy may be defeated, but the McCarthyite disease lurks beneath the surface, entrenched in powerful positions.

A Reminder — What Hoover Said of McCarthy When Joe Was Riding High

"McCarthy is a former Marine. He was an amateur boxer. He's Irish. Combine those, and you're going to have a vigorous individual, who is not going to be pushed around.

"I'm not passing on the technique of Mr. McCarthy's committee, or other Senate committees. That's the Senator's responsibility. But the investigating committees do a valuable job. They have subpoena rights without which some vital investigations could not be accomplished.

"I never knew Senator McCarthy until he came to the Senate. I've come to know him well, officially and personally. I view him as a friend and believe he so views me.

"Certainly, he is a controversial man. He is earnest and he is honest. He has enemies. Whenever you attack subversives of any kind, Communists, Fascists, or even the Ku Klux Klan, you are going to be the victim of the most extremely vicious criticism that can be made.

"I know. But sometimes a knock is a boost. When certain elements cease their attacks on me, I know I'm slipping."

—J. Edgar Hoover, in an interview August 22, 1953, with the San Diego Evening Tribune, when he and McCarthy were vacationing at the same seaside hotel in La Jolla, California. (See this Weekly for Sept. 5, 1953).

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Dulles Soft-Pedals Talk of Sanctions to Speed Up Vote on Mid-East

To look down on the Senate from the gallery these last few days was to look down on a kind of sit-out strike. Despite numerous quorum calls, few Senators were on the floor most of the time and the chamber by its desultory and lackadaisical air provided its own vivid commentary on what the Senate thinks of the Administration's plea that the Mid-East resolution is urgent.

As we went to press, the strategy of White House and State Department was to create the impression that the U.S. was moving away from sanctions in order to mollify the Senate and get it to pass the resolution. The Senate, on the other hand, which is overwhelmingly anti-sanctions, was stalling to see what Mr. Dulles does on the issue at the UN. Mr. Dulles is trying hard to ingratiate himself with the Senate leadership in order to speed a vote.

If sanctions come up before the Mid-East resolution has been passed, a bi-partisan coalition can put an anti-sanctions amendment on the resolution. This is what Mr. Dulles fears.

One Way to Train Seals

Majority Leader Johnson, in his protest against "government by leak" in the Senate last week, attacked not only premature disclosures but disclosures on the basis of favoritism to certain newspapers. "I certainly hope," Senator Johnson said, "we can devise a consistent method of operation that will treat all members of the press fairly and equitably. . . ." Behind these remarks lies the story of one of the ways in which the State Department succeeds in manipulating the press. A correspondent who faithfully echoes the State Department line is rewarded by leaks and invited to select private briefings from which more critical correspondents are barred. If correspondents get too far out of line, they run the risk of being scooped by more complaisant competitors.

State Dept. and U.S. Oil Interests Opposed to Israeli Pipeline Bypassing Suez

A key factor in the question of guarantees for Israel of free passage through the Gulf of Akaba is State Department hostility to the idea of a pipeline from Elat to Haifa which would bypass Suez. This is the background against which to study the tortuous and evasive replies made by Mr. Dulles at his press conference of February 19 when asked what he meant by the phrase "free *and innocent* passage" in his proffered assurances of Israeli access to the straits of Tiran.

Egypt could stop ships carrying essential war or other materials to Elat on the ground that this did not constitute "innocent" cargo and thus in effect restore belligerent rights in a new guise. The day after the press conference, the *Wall Street Journal* in a dispatch from Washington helped to clear up Mr. Dulles' unwillingness to be more precise.

In a long story on the plans of oil men to bypass Suez and Syria, the *Wall Street Journal* said, "For the proposed Israeli line, U.S. officials have little affection. Israel will soon complete a small eight inch line from the Gulf of Akaba. . . . They would like to build a larger pipeline on the same route as a substitute for the Suez canal. 'That would be scraping the bottom of the barrel,' declares one U.S. diplomat, 'Can you conceive of any Arab country allowing its oil to go to Israel?' Israel would have to rely on supplies from non-Arab Iran shipped along a sea route which Egypt or Saudi Arabia could block off in time of war, officials note."

What the WSJ story did not "note" was that Iran is one of the great producing countries of the Middle East, shipping from the Persian Gulf; that Britain and France still have large interests in Iranian oil; and that the Elat-to-Haifa pipeline would serve their needs against the hostility of the Arab States and the U.S. oil companies allied with the Arab States. In the recent Suez crisis, Aramco obeyed Saudi orders not to ship any oil for Britain and France across its pipeline to Syria.

Some Troubles Oil Company Press Agents Don't Talk About

"Lebanon is a republic, and its present President and Cabinet are very favorable to the West. There are about 100,000 Palestinian refugees in Lebanon, but they have not been admitted to citizenship out of fear of destroying the razor-edged balance between Moslems and Christians on which the governmental structure (indeed, the peace of the state) is based."

—Hamilton Fish Armstrong, editor of Foreign Affairs, in his report on foreign aid in Lebanon, Jordan and Iraq to the Senate Foreign Relations Committee last week.

Mr. Armstrong does not elaborate but we will. Lebanon's Christians, the only sizable enclave left in the Arab Middle East, live in fear that the faster growing Moslem majority will some day take over. To a Moslem, a "Christian Arab" is an anomaly. Only a Moslem can *really* be an Arab. So the Christian Copts are second class citizens in Egypt as are the Christian Assyrians in Iraq. The Christians fear the same fate in the Lebanon.

Had the Elat line been in operation, it could have been used for Iranian supplies to Western Europe. But this would have eased the squeeze on Britain and France from which U.S. oil companies profited by a price rise on crude and gasoline, and it would have undercut Arab power to blackmail Western Europe. Eisenhower and Dulles are in an all-out campaign to woo the uncommitted Arab States; therefore the thumbs down on an Israeli pipeline which would end Nasser's transit monopoly at Suez.

When Britain Threatened War Against Israel in Defense of Egypt

One reason for British hostility to sanctions against Israel is that Britain herself once applied armed threat to get Israeli troops out of Sinai without thereby earning Egyptian credit. James G. McDonald lifted the curtain on this hitherto secret bit of history in his recent executive session testimony before the Senate Foreign Relations and Armed Services Committees (pages 835-36).

McDonald was then U.S. Ambassador to Israel. He recalled that in December, 1948, war had broken out again and that Israeli troops "were about to cut off the Egyptian army at El Arish, Rafah and near Gaza." McDonald received an urgent message from the State Department transmitting an ultimatum from the British "that unless the Israeli troops at once withdrew from Sinai, Britain would enter the war against Israel."

McDonald related that Ben Gurion "at first exploded but finally he said, 'Well, we can take on the six Arab countries, but we really can't take on the British Empire, too. There will not be an Israeli hoof on Egyptian soil in 48 hours." McDonald told the Senators, "I have often wondered what Anthony Eden thought about that British act of saving Egypt in December of 1948 when he felt himself forced to launch his ill-advised and unfortunate attack on the Suez eight years later."

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Justice Brennan's Resistance Undermined By His Own Champion

(*Continued from Page One*)

honey, his principal champion on the committee, undermined his resistance. The prospect of defending a nominee for the Supreme Court who refused, on mere legal grounds, to take a firm position against Satan and sin was too much for O'Mahoney. To McCarthy's delight, O'Mahoney began to "clarify" the question for Mr. Justice Brennan. He cited the President's resolution against Communism in the Middle East as if it were authoritative gloss on Holy Writ and told the Justice the question asked by McCarthy had already been settled. "Do you believe," Senator O'Mahoney insisted, all but prodding the Justice in the ribs, "that international Communism is a conspiracy against the United States?" "That," the Justice said, taking his cue, "I can answer." But then Senator Jenner wanted to know whether he drew any line between international Communism and the Communist party and Brennan again tried to explain that there were particular cases before the court involving this very issue. Senator Hennings tried to rescue him with a series of questions designed to show that conspiracy prosecutions were peculiarly dependent on the particular facts in each case but this was too subtle to save him. A few minutes later Brennan's shoulders were pinned to the mat. When McCarthy asked him, "You do agree that Communism constitutes a conspiracy against the United States?", Brennan finally answered "Yes."

Brennan's Courage Fails

The retreat had begun, and McCarthy pressed harder. He wanted to know about those speeches the Justice had made criticizing Congressional committees. He soon had Justice Brennan saying, "sorry you read them that way" and "I was not concerned with any particular committee as such" though quite obviously they were aimed squarely at McCarthy. He even said he didn't believe he had called those investigations "Salem witch hunts" at which McCarthy, in his best inexorable voice, said "Yes, you did," and proceeded to quote a passage from the Boston speech about "practices reminescent of Salem witch hunts." McCarthy tightened the screws. He wanted to know what were those "hopeful signs" Brennan had noted in his Monmouth speech that people were at last "sickened" of investigatory excesses. McCarthy was having a wonderful time and interjected in a stage whisper while waiting for Brennan to reply, "I'm giving him a good opening there." Indeed, he was. For the main sign at the time was the discussion beginning in the Senate for a censure motion against McCarthy. It would have been exhilirating if the Justice at that point had said, "Of course, if you insist on the truth, I was talking of you, Senator McCarthy, and of the rising reaction in the country and the Senate against your abuse of investigatory powers." But Brennan only mumbled vaguely about reformed rules of procedure. It was painful to watch. Was he really compelled to crawl in order to be sure of reaching the Supreme Court? The new Justice was only saved from further humiliation by the bell. Senator Eastland recessed the hearing. How little unalloyed courage there is.

McCarthy Throws in the Sponge

What happened overnight is a mystery. For with the new Justice on the ropes, McCarthy suddenly threw in the sponge. At 8 a. m.—two and a half hours before the hearing was to resume—the radio already carried McCarthy's letter to Senator Eastland saying he thought further questioning would serve no useful purpose because the record "now confirms that Justice Brennan harbors an underlying hostility to Congressional attempts to investigate and expose the Communist conspiracy." It was a pleasure to hear gray-haired Senator Watkins, looking like a stern Grant Wood elder, comment later at the hearing "I completely and utterly disagree with what he (McCarthy) has said." It was even more cheering to have Senator Watkins say to Mr. Justice Brennan, "though you have not always been in agreement with the way we did our job, a good many Americans have that same point of view and I don't disagree with that although I am one of the investigators on the Internal Security Committee and have been since it was organized." Something suddenly had made McCarthy lose his nerve; perhaps the change of atmosphere made him feel his fight was hopeless. The hearing was a reminder of what the country has so recently and narrowly escaped. It looks as if we have just seen the last stand of low blow Joe.

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